

issuance, listing the public utilities whose tariffs have been terminated.

(B) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission. Commissioner Kelly not participating.

**Linda Mitry,**

*Acting Secretary.*

[FR Doc. 04-15153 Filed 7-2-04; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7782-3]

### Air Quality Criteria for Particulate Matter (External Review Draft)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of public comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is extending the public comment period on the revised drafts of Chapters 7, 8, and 9 of EPA's document, *Air Quality Criteria for Particulate Matter*, to July 30, 2004. In a previous **Federal Register** notice (69 FR 35028, June 23, 2004), the National Center for Environmental Assessment (NCEA), within EPA's Office of Research and Development, announced the availability for public review and comment of revised drafts of Chapters 7, 8, and 9 of EPA's document *Air Quality Criteria for Particulate Matter*, which incorporate revisions made in response to earlier external review of those chapters. The June 23, 2004, notice announced that the public comment period closed on July 20, in preparation for review by the EPA Science Advisory Board's Clean Air Act Scientific Advisory Committee (CASAC) on July 20 and 21, 2004. The date and arrangements for the CASAC meeting were announced in the **Federal Register** on June 9, 2004 (69 FR 32344).

**DATES:** Comments on the draft chapters must be submitted in writing no later than July 30, 2004. Send the written comments to the Project Manager for Particulate Matter, National Center for Environmental Assessment (B243-01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

**ADDRESSES:** The revised Chapters 7, 8, and 9 of the Air Quality Criteria for

Particulate Matter are available on CD ROM from NCEA. Contact Ms. Diane Ray by phone (919-541-3637), fax (919-541-1818), or e-mail ([ray.diane@epa.gov](mailto:ray.diane@epa.gov)) to request these chapters. Please provide the document's title, *Air Quality Criteria for Particulate Matter*, and the EPA numbers for each of the three revised chapters (EPA/600/P-99/002aE, EPA/600/P-99/002bE), as well as your name and address, to properly process your request. The draft chapters are also available on the NCEA Web site at <http://www.epa.gov/ncea>. Hard copies of the revised chapters can also be made available upon request.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Elias, National Center for Environmental Assessment (B243-01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919-541-4167; fax: 919-541-1818; e-mail: [elias.robert@epa.gov](mailto:elias.robert@epa.gov).

Dated: June 30, 2004.

**Peter W. Preuss,**

*Director, National Center for Environmental Assessment.*

[FR Doc. 04-15196 Filed 6-30-04; 1:52 pm]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-03-58-A (Auction No. 58); DA 04-1639]

### Broadband PCS Spectrum Auction Scheduled for January 12, 2005; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of 234 broadband Personal Communications Service (PCS) licenses scheduled to commence on January 12, 2005 (Auction No. 58). This document also seeks comment on reserve prices or minimum opening bids and other auction procedures for Auction No. 58.

**DATES:** Comments are due on or before July 8, 2004, and reply comments are due on or before July 15, 2004.

**ADDRESSES:** Comments and reply comments must be sent by electronic mail to the following address: [auction58@fcc.gov](mailto:auction58@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For legal questions: Audrey Bashkin (202) 418-0660. For general auction questions: Jeff Crooks (202) 418-0660 or Lisa Stover (717) 338-2888. For service rule questions, contact the Mobility Division, Wireless Telecommunications Bureau, as follows: Erin McGrath, (202) 418-0620; JoAnn Epps, (202) 418-1342; or Dwain Livingston, (202) 418-1338.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 58 Comment Public Notice* released on June 18, 2004. The complete text of the *Auction No. 58 Comment Public Notice*, including attachments and of related Commission documents is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The Auction No. 58 Comment Public Notice and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. ("BCPI"), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, facsimile: (202) 488-5563, or you may contact BCPI at its Web site: <http://www.BCPIWEB.com>. When ordering documents from BCPI, please provide the appropriate FCC document number (for example, FCC 00-313 for the C/F Block Sixth Report and Order). The *Auction No. 58 Comment Public Notice* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/58/>.

### I. General Information

1. By the *Auction No. 58 Comment Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announces the auction of 234 broadband Personal Communications Service ("PCS") licenses, scheduled to commence on January 12, 2005 (Auction No. 58). The spectrum to be auctioned has been offered previously in other auctions but was returned to the Commission as a result of license cancellation or termination. A complete list of licenses available for Auction No. 58 is included as Attachment A of *Auction No. 58 Comment Public Notice*.

2. The following table contains the block/eligibility status/frequency cross-reference list for Auction No. 58:

| Frequency block | Eligibility status |              | Bandwidth (MHz) (unless otherwise noted in attachment A) | Frequency (MHz) (unless otherwise noted in attachment A) |
|-----------------|--------------------|--------------|--|--|
|                 | Tier 1             | Tier 2       |  |  |
| A .....         | n/a .....          | n/a .....    | 30   | 1850–1865, 1930–1945                                     |
| C1 .....        | Open .....         | Closed ..... | 15   | 1902.5–1910, 1982.5–1990                                 |
| C2 .....        | Open .....         | Closed ..... | 15   | 1895–1902.5, 1975–1982.5                                 |
| C3 .....        | Closed .....       | Closed ..... | 10   | 1895–1900, 1975–1980                                     |
| C4 .....        | Open .....         | Closed ..... | 10   | 1900–1905, 1980–1985                                     |
| C5 .....        | Open .....         | Open .....   | 10   | 1905–1910, 1985–1990                                     |
| D .....         | n/a .....          | n/a .....    | 10   | 1865–1870, 1945–1950                                     |
| E .....         | n/a .....          | n/a .....    | 10   | 1885–1890, 1965–1970                                     |
| F .....         | Open .....         | Open .....   | 10   | 1890–1895, 1970–1975                                     |

3. In some cases, licenses are available for only part of a market or may not include all of the spectrum associated with a particular frequency block in Auction No. 58. Bold type indicates that no license of the particular tier/frequency block combination will be available in Auction No. 58. *See Attachment A of Auction No. 58 Comment Public Notice* to determine which licenses will be offered.

4. For the C and F block licenses, Basic Trading Areas ("BTAs") are divided into two tiers according to the population size, with Tier 1 comprising markets with population at or above 2.5 million, based on 2000 census figures, and Tier 2 comprising the remaining markets. Some licenses are available to all bidders in "open" bidding, while other licenses are available only to entrepreneurs in "closed" bidding. In order to qualify as an "entrepreneur," an applicant, including attributable investors and affiliates, must have had gross revenues of less than \$125 million in each of the last two years and must have less than \$500 million in total assets. All of the licenses available in "closed" bidding are C block licenses. The A, B, E, and F block licenses, as well as certain C block licenses, are available in "open" bidding. The entrepreneur eligibility restriction does not apply to licenses that were available but not won in any auction beginning on or after March 23, 1999. C block licenses for BTA215, BTA330, and BTA470 were available but not won in Auction No. 22. Accordingly, even though licenses in the C3 and C4 frequency blocks in Tier 2 generally are designated as subject to closed bidding, CW-BTA215-C3, CW-BTA330-C3, and CW-BTA470-C4 will be offered in open bidding in Auction No. 58. CW-BTA215-C3, CW-BTA330-C3, and CW-BTA470-C4 were offered in open bidding and won in Auction No. 35; however, because the winners defaulted on their payment obligations, the licenses were never awarded. Size-based bidding credits are not available for C

block licenses won in "closed" bidding or for licenses in the A, D, or E blocks.

5. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures. \* \* \* Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues relating to Auction No. 58.

## II. Auction Structure

### A. Simultaneous Multiple-Round Auction Design

6. The Bureau proposes to award all licenses included in Auction No. 58 in a simultaneous multiple-round auction. As described further below, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids. The Bureau seeks comment on this proposal.

### B. Upfront Payments and Bidding Eligibility

7. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area and the value of similar spectrum. As described further below, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments protect against frivolous or insincere bidding and provide the Commission with a source

of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 58, the Bureau proposes to calculate upfront payments on a license-by-license basis using a formula based on bandwidth and license area population: \$0.05 \*MHz\* License Area Population

8. The specific proposed upfront payment for each license available in Auction No. 58 is set forth in Attachment A of the *Auction No. 58 Comment Public Notice*. The Bureau seeks comment on this proposal.

9. The Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the maximum number of bidding units on which a bidder may place bids. This limit is a bidder's initial eligibility. Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A of the *Auction No. 58 Comment Public Notice*, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its current eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the maximum number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Bureau proposes comment on this proposal.

### C. Activity Rules

10. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their current bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule

will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

11. The Bureau proposes to divide the auction into two stages, each characterized by an increased activity requirement. The auction will start in Stage One. The Bureau proposes that the auction generally will advance from Stage One to Stage Two when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, the Bureau further proposes that it retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau seeks comment on these proposals.

12. For Auction No. 58, the Bureau proposes the following activity requirements:

*Stage One:* In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths ( $\frac{5}{4}$ ).

*Stage Two:* In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 95 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by twenty/nineteenths ( $\frac{20}{19}$ ).

13. The Bureau seeks comment on these proposals. Commenters that believe these activity rules should be modified should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

#### D. Activity Rule Waivers and Reducing Eligibility

14. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity

in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either proactive or automatic and are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

**Note:** Once a proactive waiver is submitted, that waiver cannot be unsubmitted, even if the round has not yet closed.

15. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

**Note:** If a bidder has no waivers remaining and does not satisfy the required activity level, its current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

16. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the "reduce eligibility" function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

17. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

18. The Bureau proposes that each bidder in Auction No. 58 be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth

above. The Bureau seeks comment on this proposal.

#### E. Information Relating to Auction Delay, Suspension, or Cancellation

19. For Auction No. 58, the Bureau proposes that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, or administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Bureau emphasizes that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. The Bureau seeks comment on this proposal.

### III. Bidding Procedures

#### A. Round Structure

20. The Commission will conduct Auction No. 58 over the Internet. Telephonic bidding will also be available. As a contingency plan, the FCC Wide Area Network will be available as well. The telephone number through which the backup FCC Wide Area Network may be accessed will be announced in a later public notice. Full information regarding how to establish such a connection will be provided in the public notice announcing details of auction procedures.

21. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple-round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

22. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding

activity level and other factors. The Bureau seeks comment on this proposal.

*B. Reserve Price or Minimum Opening Bid*

23. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.

24. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

25. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 58 based on factors that could have an impact on the value of the spectrum. The Bureau believes a minimum opening bid, which has been used in other auctions, is an effective bidding tool. With these guidelines in mind for Auction No. 58, the Bureau proposes to calculate minimum opening bids on a license-by-license basis using formulas based on bandwidth and license area population. Furthermore, the Bureau proposes to differentiate these formulas based on the population of each license area.

Population  $\geq$  2,000,000:\$0.50 \*MHz\*  
License Area Population

Population  $\geq$  500,000:\$0.25 \*MHz\*  
License Area Population

Population  $<$  500,000:\$0.15 \*MHz\*  
License Area Population

26. The specific minimum opening bid for each license available in Auction No. 58 is set forth in Attachment A of the *Auction No. 58 Comment Public Notice*. The Bureau seeks comment on this proposal.

27. If commenters believe that these minimum opening bids will result in substantial numbers of "unwon" licenses, or are not reasonable amounts,

or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, the Bureau particularly seeks comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of these PCS licenses. The Bureau also seeks comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

*C. Minimum Acceptable Bids and Bid Increments*

28. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The FCC Automated Auction System interface will list the nine acceptable bid amounts for each license. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. In the rounds after a bid is placed on a license, the minimum acceptable bid for that license will be equal to the standing high bid plus the defined increment.

29. Once there is a standing high bid on a license, the FCC Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described below. The difference between the minimum acceptable bid and the standing high bid for each license will define the bid increment. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

30. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid will be calculated differently, as explained below.

31. For Auction No. 58, the Bureau proposes to calculate minimum acceptable bids by using a smoothing

methodology, as the Bureau has done in several other auctions. The smoothing formula calculates minimum acceptable bids by first calculating a percentage increment, not to be confused with the bid increment. The percentage increment for each license is based on bidding activity on that license in all prior rounds; therefore, a license that has received many bids throughout the auction will have a higher percentage increment than a license that has received few bids.

32. The calculation of the percentage increment used to determine the minimum acceptable bids for each license for the next round is made at the end of each round. The computation is based on an activity index, which is a weighted average of the number of bids in that round and the activity index from the prior round. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.3 (30%). Hence, at these initial settings, the percentage increment will fluctuate between 10% and 30% depending upon the number of bids for the license.

*Equations*

$$A_i = (C * B_i) + ((1 - C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

$$X_{i+1} = I_{i+1} * Y_i$$

where,

$A_i$  = activity index for the current round (round  $i$ )

$C$  = activity weight factor

$B_i$  = number of bids in the current round (round  $i$ )

$A_{i-1}$  = activity index from previous round (round  $i-1$ ),  $A_0$  is 0

$I_{i+1}$  = percentage increment for the next round (round  $i+1$ )

$N$  = minimum percentage increment or percentage increment floor

$M$  = maximum percentage increment or percentage increment ceiling

$X_{i+1}$  = dollar amount associated with the percentage increment

$Y_i$  = high bid from the current round

33. Under the smoothing methodology, once a bid has been

received on a license, the minimum acceptable bid for that license in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand.

#### Examples

##### License 1

$$C = 0.5, N = 0.1, M = 0.3$$

*Round 1 (2 new bids, high bid = \$1,000,000)*

i. Calculation of percentage increment for round 2 using the smoothing formula:

$$A_1 = (0.5 * 2) + (0.5 * 0) = 1$$

$I_2 = \text{The smaller of } ((1 + 1) * 0.1) = 0.2$  or 0.3 (the maximum percentage increment).

ii. Calculation of dollar amount associated with the percentage increment for round 2 (using  $I_2$  from above):

$$X_2 = 0.2 * \$1,000,000 = \$200,000$$

iii. Minimum acceptable bid for round 2 = \$1,200,000.

*Round 2 (3 new bids, high bid = \$2,000,000)*

i. Calculation of percentage increment for round 3 using the smoothing formula:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

$I_3 = \text{The smaller of } ((1 + 2) * 0.1) = 0.3$  or 0.3 (the maximum percentage increment).

ii. Calculation of dollar amount associated with the percentage increment for round 3 (using  $I_3$  from above):

$$X_3 = 0.3 * \$2,000,000 = \$600,000.$$

iii. Minimum acceptable bid for round 3 = \$2,600,000.

*Round 3 (1 new bid, high bid = \$2,600,000)*

i. Calculation of percentage increment for round 4 using the smoothing formula:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

$I_4 = \text{The smaller of } ((1 + 1.5) * 0.1) = 0.25$  or 0.3 (the maximum percentage increment).

ii. Calculation of dollar amount associated with the percentage increment for round 4 (using  $I_4$  from above):

$$X_4 = 0.25 * \$2,600,000 = \$650,000.$$

iii. Minimum acceptable bid for round 4 = \$3,250,000.

34. As stated above, until a bid has been placed on a license, the minimum

acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described above, and the minimum opening bid. That is,  $I = (\text{minimum opening bid})(1 + N)\{\text{rounded}\} - (\text{minimum opening bid})$ . Therefore, when  $N$  equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

35. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

36. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Automated Auction System. The Bureau seeks comment on these proposals.

#### D. High Bids

37. At the end of a bidding round, a high bid for each license will be determined based on the highest gross bid amount received for the license. In the event of identical high bids on a license in a given round (*i.e.*, tied bids), the Bureau proposes to use a random number generator to select a single high bid from among the tied bids. If the auction were to end with no higher bids being placed for that license, the winning bidder would be the one that placed the selected high bid. However, the remaining bidders, as well as the high bidder, can submit higher bids in subsequent rounds. If any bids are received on the license in a subsequent round, the high bid again will be determined by the highest gross bid amount received for the license. The Bureau seeks comment on this proposal.

38. A high bid will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. A high bid from a previous round is sometimes referred to as a "standing high bid." Bidders are reminded that standing high bids count towards bidding activity.

#### E. Information Regarding Bid Withdrawal and Bid Removal

39. For Auction No. 58, the Bureau proposes the following bid removal and

bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By removing selected bids in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

40. A high bidder may withdraw its standing high bids from previous rounds using the withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions of the Commission rules. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

41. In the *Part 1 Third Report and Order*, 63 FR 770, January 7, 1998, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

42. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 58 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

**F. Stopping Rule**

43. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." For Auction No. 58, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses.

44. Bidding will close simultaneously on all licenses after the first round in which no new bids, proactive waivers, or withdrawals are received. Thus, unless circumstances dictate otherwise, bidding will remain open on all licenses until bidding stops on every license.

45. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 58:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.

ii. Keep the auction open even if no new bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on which the high bid increased in at least one of a specified preceding number of rounds.

46. The Bureau proposes to exercise these options only in certain circumstances, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase

the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Bureau seeks comment on these proposals.

**IV. Conclusion**

47. Comments are due on or before July 8, 2004, and reply comments are due on or before July 15, 2004. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: *auction58@fcc.gov*. The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 58 Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

48. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Gary Michaels,**

*Deputy Chief, Auctions and Spectrum Access Division, WTB.*

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**FEDERAL COMMUNICATIONS COMMISSION**

**[DA 04-1763]**

**Third Meeting of the Advisory Committee for the 2007 World Radiocommunication Conference (WRC-07 Advisory Committee)**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the third meeting of the WRC-07 Advisory Committee will be held on September 27, 2004, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2007 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and/or proposals introduced by the Advisory Committee's Informal Working Groups.

**DATES:** September 27, 2004; 10 a.m.–12 noon.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW-C305, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Alexander Roytblat, FCC International Bureau, Strategic Analysis and Negotiations Division, at (202) 418-7501.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice, DA 04-1763, released June 23, 2004. The Federal Communications Commission (FCC) established the WRC-07 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2007 World Radiocommunication Conference (WRC-07).

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of the third meeting of the WRC-07 Advisory Committee. The WRC-07 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the third meeting is as follows: